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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/551,128      | 09/29/2005  | Shoji Yuyama         | 2005_1527A          | 4073             |

513 7590 11/16/2007  
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SUITE 800  
WASHINGTON, DC 20006-1021

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| EXAMINER |
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DURAND, PAUL R

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| ART UNIT | PAPER NUMBER |
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3721

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|-----------|---------------|
| MAIL DATE | DELIVERY MODE |
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11/16/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

CT

**Office Action Summary**

Application No.

10/551,128

Applicant(s)

YUYAMA ET AL.

Examiner

Paul Durand

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 9/29/2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/19/2007 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1 and 3-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inamura et al. (US 5,097,652) in view of Jones (US 5,468,080) in further view of Zelnick et al (US 3,191,356).

In claims 1, 5, 6 and 8, Inamura discloses the invention as claimed including packing sheet 41, printing means 45, sealer 44, provided with a conveyance portion generally defined by the path of travel, tension means 43, for tensioning a length of the package and moving means in the form of transport rollers 46, which moves the packing sheet through the machine (See figures 1, 2 and col. 4, line 52 – col. 5, line 19).

What Inamura does not disclose is tension control mechanism to hold the packing sheet at a constant value and a position detector. However, Jones teaches that

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it is old and well known in the art of packaging to provide moving and urging means (generally indicate by arm 18), which comes into contact with the packing web "F" and position detecting means 20, functioning as a sensor, which determines the location of the moving means and the web tension for the purpose of providing and maintaining proper tension on a web of material (See figure 1 and col. 3, line 39 – col. 4, line 19).

Furthermore, Zelnick teaches that it is old and well known in the art to provide a tension mechanism comprised of ascending and descending mechanism 62, which is biased by spring 50a for the purpose of maintaining a desired tension in a film web (See figure 1).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the invention of Inamura with the positional and tensional means as taught by Jones and the linear moving means as taught by Zelnick for the purpose of providing and maintaining proper tension on a web of material.

In claims 3, 4, 7 and 9, the modified invention of Inamura, through Jones, discloses the invention as applied to claim 1 above including urging means (generally indicated by arm 18), which ascends and descends along a guide rail in the form of pivot point (no number given) and tension rollers 24,26 which work together for the purpose of ensuring constant tension in the web and to eliminate slack (see Jones, figure 1 and col. 3, line 39 – col. 4, line 19).

***Response to Arguments***

4. Applicant's arguments filed 10/19/2007 have been fully considered but they are not persuasive.

Applicant has amended the claim in an attempt to place the independent claim in condition for allowance. However, the amended subject matter is functional in nature and cannot serve to distinguish the claims over the cited prior art of record. The examiner has made this argument of record in the Advisory Action mailed 10/9/2007. As such, the relevant case law and citation to the MPEP will not be readdressed here.

It is suggested that applicant again review the prior art and try <sup>to</sup>~~top~~ distinguish the claims in terms of structure rather than function.

This action is non-final

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Durand whose telephone number is 571-272-4459. The examiner can normally be reached on 0730-1800, Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Paul Durand', with a stylized, flowing script.

Paul Durand  
November 7, 2007